

**TOWN OF NEWTON**  
**CODE OF ETHICS ORDINANCE**  
*(Town Meeting Vote – March 10, 1998, Article 34)*

The Town of Newton, New Hampshire, pursuant to RSA 31:39-a, ordains as follows:

**TITLE:**

This Ordinance shall be known and referred to as the NEWTON CODE OF ETHICS.

**DECLARATION OF POLICY:**

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of that government. Each local Officer/Employee of the Town, whether elected or appointed, paid or unpaid, including members of Town Boards, Commissions, Committees or Agencies, (hereinafter referred to as “Town Officer”) must earn and honor that trust by his or her conduct in all official actions. The purpose of this ordinance is to (a) ensure fair consideration of any application or matter to be voted upon and also to ensure the appearance of fair consideration so as to maintain public confidence in the integrity of Town Government, and (b) ensure that Town Office not be used for personal gain or advantage.

In recognition of these principles, there is hereby established a CODE OF ETHICS ORDINANCE for all Town Officers / Employees.

Volunteers are not covered by this Ordinance.

**Section I. DEFINITIONS:**

- 1.1 **OFFICIAL OR EMPLOYEE:** Any person serving in a public office or a public body of the Town, whether paid or unpaid, appointed or elected, full-time or part-time.
- 1.2 **PUBLIC BODY:** Office, Department, Commission, Committee, Agency or Board of the Town.
- 1.3 **INTEREST:** Any privilege, profit, gain or advantage one stands to receive if certain actions or events occur.
  - (a) **Financial Interest:** Any interest which, either directly or indirectly, promotes or obtains a monetary or material benefit due to its exercise (other than the authorized salary for public service to the Town) to the official or employee, the immediate family of the official or employee, or to anyone retaining the services of the official or employee.
  - (b) **Personal Interest:** Any interest created due to blood, marriage, close business relationships, political associations or household residence (either relatives or live-in boyfriends or girlfriends) regardless of whether or not a financial interest is involved.
  - (c) **Immediate Family:** Immediate family encompasses spouses, dependents, anyone residing in the person’s household and anyone who, by virtue of blood or marriage, is such a direct relation as to be a parent, child, grandparent, brother, sister or in-law.

(d) Pecuniary Interest: Any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reductions of increased prosperity generally.

(e) Disclosure: The revelation of secretly known information that would either bias or change the result of a municipal decision if not fully admitted. Disclosure must be public and must be confirmed in writing. Where appropriate and where time permits, disclosure is to be made to the Board of Selectmen, both orally and in writing, before the public body with jurisdiction meets on the matter.

(f) Construction: The use of "he" or any other pronoun is to be considered a neutral term, not designating a particular gender but applicable to all persons in general.

## **Section II. FAIR AND EQUAL TREATMENT:**

All municipal officials, employees and agents shall give each and every person fair and equal treatment. No official, employee or agent shall give any person special consideration, advantage or favor as a result of public status, wealth, position, religious, family, personal or financial interest.

## **Section III. CONFLICTS OF INTEREST:**

- 3.1 Financial and Personal Interest. No person serving in a public position shall have, either for himself or for an immediate family member or for any other person, any personal, financial or pecuniary interest in any business, contract or other transaction with any public body without the complete prior disclosure to be the Board of Selectmen showing the full extent and nature of his interest.
- 3.2 Disclosure and Disqualification. No public official shall advise, deliberate and/or vote on any matter in which he holds any interest, whether it be personal, financial or pecuniary and must publicly disclose to the public body with jurisdiction the nature and extent of that interest, and must disqualify himself from advising, deliberating and/or voting on the matter.
- 3.3 Incompatible Employment. No official or employee shall be active in private employment with, or render services for, any private citizen, immediate family member or household member having business contracts or transactions with any public body unless and until he publicly and fully discloses the nature and extent of his interest.
- 3.4 Representations of Private Persons. No person serving in a public position shall represent any private citizen other than himself or an immediate family member before any public body of the Town without disclosure.
- 3.5 Gifts and Favors. No gifts, whether they be money, favors, things, loans or promises, are to be accepted by any public official, employee or board member while acting in his capacity as a public servant of the Town.

- (a) Exceptions. Any discounts provided to a whole class which has been appropriately authorized by the Board of Selectmen and three other exceptions:
    - 1) Unsolicited advertising or promotional materials of normal intrinsic value such as pens and calendars;
    - 2) Awards for meritorious civic service contributions;
    - 3) Unsolicited consumable (excepting alcoholic beverages) items that are donated to an entire work group during holidays.
  - (b) Election Contributions. This section shall not apply to election contributions or other gifts given to any person running for public office in accordance with applicable Federal and State law.
- 3.6 Confidential Information. No public official or employee shall disclose any confidential information regarding any other official, employee, board member, commission member, person, property or governmental affairs of the Town unless and until prior approval by the public body having jurisdiction or the Board of Selectmen permits disclosures. Regardless of whether disclosure is involved, no official or employee shall allow or use any confidential information to advance his own personal gain or that of any other person.
- 3.7 Nepotism.
- (a) Public Officials and Boards. No person serving in a public position shall appoint or vote for appointment of any person in his / her immediate family to any public position. If a proposed appointee is a member of the immediate family of any Board Member, that member shall remove himself / herself completely from the appointment process.
  - (b) Public Employment by Department Heads. When employing the members of the immediate family, Town public policy makes the appearance of fairness and conformity with the Town Policy mandatory. Thus, full-time employment of immediate family members shall not be approved if another member would have the practical authority to appoint, evaluate, supervise or discipline the other. If a need arises for part-time or seasonal employment by a department, then any proposal to employ a member of the Department Head's immediate family shall be subject to prior approval by a majority of the Board of Selectmen. The Selectmen and Department Heads shall insure that the interest of the community and fairness to all seeking employment are the primary consideration.
- 3.8 Voting. No town board, commission member, employee or authority is permitted to vote on appointment of a person with or in whom he has a personal or financial interest.

#### **Section IV. CRIMINAL LIABILITY:**

New Hampshire law provides that a person is guilty of a Class B felony if he either offers or accepts a bribe while acting as a public servant. In addition, a public servant may also be guilty of a Class B felony if he fails to report any bribes offered him while in the course of public service.

**CONDUCT OF NEWTON PUBLIC OFFICIALS:**

(a) Definition as used in this policy:

1. Town Public Official means an individual who is employed by Newton either part-time or full-time as an appointed, elected or classified employee.
2. Public body means any Town governmental agency, board, body, council, commission or department.
3. Interest means a direct, personal and pecuniary interest, individually or on a client's behalf, in a matter which is under consideration by the governmental body of which the public official is a member.
4. Client means any individual or entity with which a public official has a professional, contractual relationship.

(b) No Public Official shall:

1. Participate in any hearing, debate, discussion or vote, or in any manner otherwise attempt to influence the outcome of a matter in which he or she has an interest.
2. Utilize information obtained in such capacity for his or her own personal benefit or that of his or her clients or the clients of the organization with which the public official is associated.
3. Appear on behalf of a client before any governmental body of which the public official is a member or whose members have been appointed by the governmental body of which the public official is a member.
4. Accept anything of value from any person or organization when the public official knows or reasonably should know that the offer is for the purpose of influencing the public official's actions or decisions.
5. Use his or her official position to influence or to attempt to influence any governmental body to act in favor of the public official or the public official's clients or clients of the organization with which the public official is associated.
6. Use town property or town labor for personal purposes.

- (c) Other individuals in the organization with which the public official is associated may not appear on behalf of the clients before the governmental body of which the public official is a member, or any governmental body whose members have been appointed by the body of which the public official is a member, unless the public official publicly disqualifies himself or herself and refrains from participation in the matter in accordance with paragraph (b:1) of this policy and otherwise conducts himself or herself with respect to the matter in accordance with paragraph (b).

**Section V. CHALLENGE PROCEDURE:**

- A. Any person may inquire into the possible conflict of interest of any Town Official on any matter requiring official action, stating the grounds for the inquiry.
- B. Such challenged Town Official shall be obligated to inform the person if any conflict of interest exists.
- C. If the person making the inquiry is not satisfied with the challenged Town Official's response, he may require the presiding officer of the Town Board (in the case of a town employee, "Town Board" shall mean the appointing board) to call for a vote as to whether or not the challenged Town Official shall be disqualified to take the official action. A majority of the remaining Town Board Members, including alternates, shall determine whether or not the challenged Town Official may be allowed to take the official action.

**Section VI. APPEAL PROCEEDINGS:**

Appeals under this Ordinance shall be governed by RSA 31:39-a.

**Section VII. ORDINANCE PROVIDED TO TOWN OFFICIAL:**

Upon taking his position, the Town Official, as defined above, shall be furnished by the Town Clerk with a copy of this Ordinance. Each such person shall sign a written acknowledgement that he has been provided with such a copy. The acknowledgement shall be filed by the Town Clerk with the Town Official's appointment papers.

**Section VIII. EFFECTIVE DATE.**

This Ordinance shall be effective as of the date of adoption by the Newton Town Meeting. Notwithstanding the foregoing, this Ordinance shall exempt affected Town Officials who are in office or employed by the Town at the time this Ordinance is adopted for a period of ninety (90) days and shall remedy his situation so as to comply with this Ordinance.

**Voted at Town Meeting on March 10, 1998 (Article #34)**